

REGULATION 12
1985 MANDATORY GENERAL RENT ADJUSTMENT

SECTION 1. SCOPE:

Pursuant to Chapter 34 of the Ordinances of 1984, Section 5(a) the Boston Rent Equity Board hereby promulgates a General Adjustment of maximum rents for all controlled housing accommodations subject to the conditions contained herein.

A landlord shall comply with requirements and procedures of this Regulation, in order to increase the maximum rent for a controlled housing accommodation by the allowable General Adjustment amount.

SECTION 2. DEFINITIONS:

When used in this Regulation, unless the context otherwise requires, the following items shall have the following meanings:-

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- A. Board: The Boston Rent Equity Board
- B. Consumer Price Index (C.P.I.): The Consumer Price Index for all urban consumers for the Boston area as published by the United States Department of Labor, Bureau of Statistics.
- C. Controlled Housing Accommodations: All housing accommodations as defined in Paragraph 1(n) of the Ordinance.
- D. General Laws: The General Laws of the Commonwealth of Massachusetts.
- E. Landlord: The individual who holds title to any controlled housing accommodation in any manner, including without limitation, a partnership, corporation, or trust. For purposes of this regulation, the rights and duties of the landlord hereunder shall be the obligation of anyone who managers, controls, or customarily accepts rent on behalf of the landlord.
- F. Maximum Rent: The maximum rent as established and adjusted pursuant to Sections 4, 5 and 7 of the Ordinance.
- G. Rental Housing Agreement: An agreement, oral, written, or implied, between a landlord and a tenant for the use and occupancy of a controlled housing accommodation and for housing services.
- H. Ordinance: City of Boston Ordinances of 1984, Chapter 34.
- I. Section: Sections of this regulation.
- J. Serve/Service: Notification of any form, notice or affidavit required to be served under this regulation. Service shall be made in the following manner:
 1. by constable, or
 2. certified mail, return receipt requested, or

3. in hand with an impartial witness, or
4. any other method of personal service capable of being proven.

K. Tenant: A tenant, subtenant, lessee, sublessee, or other person entitled under the terms of a rental housing agreement to the use and occupancy of any controlled housing accommodation.

SECTION 3. AMOUNT OF GENERAL ADJUSTMENT:

Based upon the increase in the Consumer Price Index for the calendar year 1984, a landlord of a controlled housing accommodation may increase the maximum rent for such housing accommodation by 5.0%.

SECTION 4. CALCULATION OF GENERAL ADJUSTMENT:

The new maximum rent for a controlled housing accommodation, shall be calculated as follows:

A. Determining amount of adjustment:

Multiply maximum rent by 5.0%,

B. New Maximum Rent:

Add amount of adjustment to maximum rent. The result shall be the new maximum rent.

C. Rounding Off to Nearest Dollar:

All maximum rents established pursuant to this Regulation shall be rounded off to the nearest dollar as follows:

1. Maximum rents which contain a cents amount of .01 - .49 shall be rounded downward, or
2. Maximum rents which contain a cents amount of .50-.99 shall be rounded upward.

SECTION 5. GENERAL ADJUSTMENT CONDITIONS:

A. Violations of record:

1. No landlord shall be entitled to a General Adjustment of maximum rent of a controlled housing accommodation if such housing accommodation is in violation of Article II of the State Sanitary Code or the State Building Code or the Boston Fire Prevention Code or any other applied municipal code, ordinance or State law, regulating the conditions or occupancy of housing accommodations such violations shall only include active violations or a findings of probable cause on record at any applicable City or State agency as of the date the landlord's General Adjustment Application (Form GA-1) is received by the Board pursuant to Section 6. The Board shall be limited to determining violations of record in accordance with the provisions of Section 6.

- B. Registration: No landlord shall be entitled to a General Adjustment until all housing accommodations in a building or development are duly registered in accordance with Regulation 2.
- C. Prior Conditional Orders of Board: No landlord shall be entitled to a General Adjustment until the building and/or housing accommodation are in compliance with all orders and/or conditional decisions made by the Rent Board prior to the effective date of this Regulation.
- D. 1984 Individual Rent Adjustment:

No landlord shall be entitled to a General Adjustment if such landlord received an individual rent adjustment for the controlled housing accommodation at any time during calendar year, 1984.

SECTION 6. PROCEDURE FOR ESTABLISHING NEW MAXIMUM RENT:

The following is the procedure for establishing new maximum rents for controlled housing accommodations pursuant to the General Adjustment.

A. General Adjustment Application (Form GA-1):

A landlord of a controlled housing accommodation, in order to establish a new maximum rent for such housing accommodation, shall file with the Board a General Adjustment Application (Form GA-1). Such Application shall include the following information:

1. Property location;
2. Pertinent landlord information;
3. Pertinent tenant information for each controlled housing accommodation;
4. Current maximum rent;
5. Amount of adjustment (5% x current maximum rent);
6. New maximum rent (current maximum rent + adjustment);
7. A statement that the housing accommodation meets all the conditions of Section 5.
8. Any other relevant information.

B. Processing of Application:

1. Upon receipt of the landlord's Application for General Adjustment, such Application shall be time-stamped and docketed.

2. The Application shall then be stamped: "Accepted", unless:
 - (a) The Application is illegible, incomprehensible, incomplete, contains incorrect information, or is otherwise improperly filed,
 - (b) The property is not registered,
 - (c) The property is not in compliance with all orders or conditional decisions made by the Board prior to the date the Board received the Application,
 - (d) The maximum rent for the controlled housing accommodation has been adjusted during calendar year 1984.

3. If the Application is rejected pursuant to subparts (a)-(c), the Administrator shall notify the landlord of such rejection. The landlord shall correct the problem resulting in such rejection. Upon correction of such problem, the landlord may file a new Application, properly completed. If the Application is rejected pursuant to subpart (d), the landlord shall not be entitled to the General Adjustment.

C. Notice of Acceptance (Form GA-2):

Upon acceptance of the Application the Board shall send a Notice of Acceptance (Form GA-2) to the landlord.

D. Notice to Tenants:

1. Within fifteen (15) days after receipt of the Notice of Acceptance (Form GA-2), the landlord shall serve the tenants with a Notice of General Adjustment (Form GA-3) along with a Tenant Complaint Form (Form GA-4).
2. The landlord may, at the same time, implement the rent increase by complying with appropriate notice and service requirements of the General Laws.

E. Tenant Complaint Form (Form GA-4):

1. Within fifteen (15) days of receipt of the General Adjustment Notice (Form GA-3), any tenant who has knowledge of an existing violation of record for his/her housing accommodation may file with the Board a Tenant Complaint (Form GA-4) along with an official copy of the violation issued by the appropriate government agency. Such government record shall be conclusive proof that the violation exists.
2. Upon receipt of a Tenant Complaint (Form GA-4), the Board shall send notice to both the landlord and tenant that

the maximum rent for such housing accommodation shall remain at the established level prior to the General Adjustment until the violation is corrected.

3. A landlord, upon correction of the violation, may file a petition for General Adjustment Certificate of Compliance (Form GA-5). The landlord shall attach to any such petition, an official copy of the appropriate government record indicating that the violation has been corrected.
4. If the landlord submits the appropriate government record indicating that the violation has been corrected, the Board shall deem such record as conclusive proof that such violation no longer exists.
5. The Board shall then send a General Adjustment Certificate of Compliance (Form GA-6) to both the landlord and tenant which states that the new maximum rent is in effect. Upon receipt of the Certificate, the landlord may implement a rent increase by complying with appropriate notice and service requirements of the General Laws.
6. Under no circumstances shall the landlord demand, accept, receive or retain rent in excess of the maximum rent.
7. In the event the Board finds that the landlord is charging the General Adjustment in violation of this Section, then the Board shall order the landlord to return to the tenants any or all monies collected in excess of the maximum rent. In addition, the maximum rent shall remain at the pre-General Adjustment level until such time as the Board finds that the landlord has satisfactorily complied with the requirements of this Section.

SECTION 7. INDIVIDUAL PETITIONS FOR ADJUSTMENT PROCESS:

A. Pending Case Options:

Any landlord who has filed an individual Landlord Petition for Adjustment which is pending before the Board on April 26, 1985 may choose any of the following options:

1. Withdraw the pending Petition and become eligible to receive immediately the General Adjustment. In addition, such landlord may reapply for an individual adjustment at any time after July 15, 1985; or
2. Continue the processing of the Petition. Where the landlord chooses to continue with the processing of a Petition the Board shall:
 - (a) Calculate the allowable adjustment to determine the adjusted maximum rent;

- (b) Multiply the adjusted maximum rent by General Adjustment percentage (5%) to determine General Adjustment amount,
- (c) Add General Adjustment amount to adjusted maximum rent in order to determine new maximum rent.
- (d) An increase under this Section shall not go into effect until a decision is issued by the Board on the landlord's Petition.

B. Limited Suspension of the Individual Petition for Adjustment Process:

1. Landlord Petition for Adjustment:

Any landlord Petition for Adjustment that was time-stamped on or after April 25, 1985 shall be not-accepted without prejudice and returned to the landlord.

2. Tenant Petition for Adjustment:

Any tenant petition for adjustment shall be processed in accordance with the procedures as set forth in the Ordinance and applicable Regulations.

C. Hardships:

For the purpose of alleviating hardships and other inequities, any landlord who claims that his maximum rents do not yield a fair net operating income, may file an individual Landlord Petition for Adjustment on or after July 15, 1985.

SECTION 8. IMPLEMENTATION:

- A. Subject to the provisions of this Regulation the new maximum rent as established by this Regulation may not be charged until the expiration of any lease or tenancy existing on the effective date of this Regulation, or unless the tenant is given the option of terminating the tenancy under a provision of the lease agreement.
- B. No notice issued by the Board concerning changes in maximum rent under this adjustment shall satisfy or modify any requirements of law pertaining to notice from a landlord to a tenant of a change in rent or termination of a tenancy.
- C. The effective date of this General Adjustment shall be June 1, 1985.
- D. The right to establish a General Adjustment under this Regulation shall expire at the close of business on May 31, 1986.

SECTION 9. PENALTIES:

Any violation of this Regulation may subject the violator to the penalties as prescribed in Sections 13 and 14 of the Ordinance.

SECTION 10. JUDICIAL CONSTRUCTION:

The provisions of this Regulation are severable, and if any provision shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Voted this 25th day of APRIL 1985.

Passed: Yeas 4

Nays 0

William Joy
William Joy, Chairman

Maurice Frye
Maurice Frye

Angela Tina Leardi
Angela (Tina) Leardi

Doris Thompson
Doris Thompson

